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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/055,156 | 04/04/1998 | HILLEL GAZIT | 0000001 | 3555 |

7590 05/15/2003

PILLSBURY WINTHROP LLP
1600 TYSONS BLVD.
MCLEAN, VA 22102

EXAMINER

HOM, SHICK C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2666

DATE MAILED: 05/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/055,156

Applicant(s)

GAZIT, HILLEL

Examiner

Shick C Hom

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-149 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 21.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 1,2, 3, 20-24,43, 46-48,54-56,63,64, 67, 72, 75, 79, 82, 84-101,112-115,118,129-132,135 and 140-143.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 4-19,25-42, 44-45,49-62,65,66,68-71,73,74,76-78,80,81,83,102-111,116,117,119-128,133,134,136-139 and 144-149.

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12-18-02 have been fully considered but they are not persuasive. However, in light of the response, the finality of the previous office action have been withdrawn.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 16-19, 49-50, 51-53, 57-62, 83, drawn to queuing arrangement, classified in class 370, subclass 412.
 - II. Claims 25-30, 31-38, 39-41, 42, 44-45, drawn to synchronizing, classified in class 370, subclass 503.
 - III.. Claims 4-15, 102-105, 106-111, 116-117, 119-123, 124-128, 133-134, drawn to particular storing and queuing arrangement, classified in class 370, subclass 429.
 - IV.. Claims 65-66, 68-70, 71, 73-74, 76-77, 78, 80-81, 136-139, 144-145, 146-149, drawn to flow control of data transmission through a network, classified in class 370, subclass 235.

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3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention I for determining the data storage structure for storing old and new data stream, invention II for modifying timing references of the data stream, invention III for avoiding buffer overflow by delaying a portion of the data stream, and invention IV for aligning old data stream with new data stream using a time stamp have utility by itself. The subcombinations has separate utility such as invention I may be used to provide more reliable data transmission by preventing loss of data; invention II may be used to provide better synchronization for transmission of multiple data streams through a network; invention III may be used to prevent congestion in data transmission; and invention IV may be used to provide better scheduling of data transmission in a network. .

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II, III, or IV restriction for examination purposes as indicated is proper.

5. A telephone call was made to attorney Ross L. Franks on May 12, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick Hom whose telephone number is (703) 305-4742.



DANG TON
PRIMARY EXAMINER

SH

May 12, 2003